

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

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KIRK DAHL, <i>et al.</i> ,	:	
	:	
Plaintiffs,	:	Civ. A. No. 07-12388-EFH
	:	(Consolidated)
	:	
vs.	:	
	:	Oral Argument Requested
BAIN CAPITAL PARTNERS, LLC, <i>et al.</i> ,	:	
	:	
Defendants.	:	
	:	
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THE GOLDMAN SACHS GROUP, INC.’S MOTION FOR SUMMARY JUDGMENT

Pursuant to Rule 56 of the Federal Rules of Civil Procedure and Rule 56.1 of the Local Rules of the United States District Court for the District of Massachusetts, defendant The Goldman Sachs Group, Inc. (“GS Group”), through its undersigned counsel, hereby moves for summary judgment as to both claims against GS Group set forth in Plaintiffs’ Fifth Amended Complaint (the “5AC”). As grounds for this motion, GS Group states that it is entitled to judgment as a matter of law because: (i) GS Group is not a proper defendant in this action; and (ii) despite several years of extensive discovery, plaintiffs cannot prove that GS Group or any of its affiliates participated in any conspiracy in violation of the antitrust laws.

In support of this motion, GS Group relies on the following documents, all of which are being filed under seal contemporaneously herewith pursuant to this Court’s Order of July 2, 2012: (i) GS Group’s Memorandum of Law in Support of its Motion for Summary Judgment; (ii) GS Group’s Local Rule 56.1 Statement of Material Facts as to Which There Is No Genuine Issue To Be Tried; and (iii) the Declaration of Richard C. Pepperman in Support of GS Group’s Motion for Summary Judgment (together with the exhibits thereto).

WHEREFORE, for all of the above-stated reasons, GS Group respectfully requests that the Court: (i) grant GS Group's Motion for Summary Judgment; (ii) enter judgment dismissing Counts One and Two of the 5AC against GS Group with prejudice; and (iii) grant such other and further relief to GS Group as this Court deems just and proper.

REQUEST FOR ORAL ARGUMENT

Pursuant to Local Rule 7.1(d), GS Group respectfully requests oral argument on this motion.

LOCAL RULE 7.1 CERTIFICATION

Pursuant to Local Rule 7.1(a)(2), the undersigned hereby certifies that counsel for defendants conferred with counsel for plaintiffs and attempted in good faith to resolve the matters presented by this motion but were unable to do so.

Dated: July 23, 2012
Boston, Massachusetts

/s/ John D. Donovan
Gandolfo V. DiBlasi (admitted *pro hac vice*)
Richard C. Pepperman II (admitted *pro hac vice*)
Stephanie G. Wheeler (admitted *pro hac vice*)
SULLIVAN & CROMWELL LLP
125 Broad Street
New York, NY 10004-2498
(212) 558-4000
diblasig@sullcrom.com
peppermanr@sullcrom.com
wheelers@sullcrom.com

John D. Donovan, Jr. (BBO# 130950)
ROPES & GRAY LLP
One International Plaza
Boston, MA 02110-2624
(617) 951-7566
john.donovan@ropesgray.com

Attorneys for The Goldman Sachs Group, Inc.

CERTIFICATE OF SERVICE

I, John D. Donovan, hereby certify that on July 23, 2012, a true and correct copy of the foregoing document was served upon the attorney of record for each party by transmission through the Court's electronic case filing system.

/s/ John D. Donovan

John D. Donovan